

FILED

MAY 26 2016

Clerk, U S District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

PNC BANK, NATIONAL
ASSOCIATION,

Plaintiff,

vs.

MICHAEL WILSON and KAREN L.
SELL,

Defendants.

CV 14-80-BU-DWM-JCL

ORDER

This matter is before the Court on Plaintiff PNC Bank, National Association's ("PNC Bank") Motion for Summary Judgment. (Doc. 63.) Magistrate Judge Jeremiah Lynch entered Findings and Recommendation on April 28, 2016, recommending granting the motion. (Doc. 84.) The parties did not file objections.

Where there are no objections, the court is to give the level of consideration it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 150 (1985), and this Court reviews for clear error. Clear error exists if the court is left with a "definite and firm conviction that a mistake has been committed." *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Trust for S. Cal., Inc.*, 508 U.S. 602, 623

(1993) (internal quotation marks omitted).

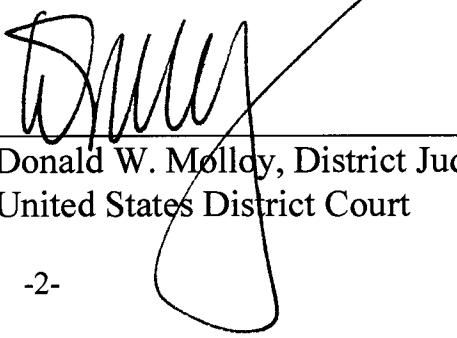
The Court finds no clear error in the finding that Defendant Michael Wilson is in default under the promissory note, that PNC Bank is the proper party in interest with standing to pursue foreclosure under the promissory note and the deed of trust, and that it is entitled to foreclosure and sale. Wilson's clean hands argument is without merit. The Court finds no clear error in the finding that Wilson cannot sustain his claims under the Consumer Protection Act.

Accordingly, IT IS ORDERED that the Findings and Recommendation (Doc. 84) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (Doc. 63) is GRANTED. Plaintiff is entitled to foreclosure and sale of the Gallatin Property, and Defendant Wilson's counterclaims under the Consumer Protection Act are DISMISSED.

IT IS FURTHER ORDERED that all deadlines are VACATED, and any pending motions are DENIED as moot. The bench trial set for June 13, 2016, is VACATED. The Clerk of Court is directed to close this case.

DATED this 26 day of May, 2016.


Donald W. Molloy, District Judge
United States District Court